

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RALF HARTMANN,

Plaintiff,

-V-

GOOGLE LLC AND YOUTUBE LLC,

Defendants.

20-CV-5778 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

This action was commenced with the filing of the Complaint on July 24, 2020. (Dkt. 1). On October 23, 2020, the Court granted Plaintiff leave to file an amended complaint. (Dkt. 17). One week later, on October 30, 2020, Plaintiff filed the First Amended Complaint. (Dkt. 18).

On November 17, 2020, the Court granted leave for Defendants to file a motion to dismiss the First Amended Complaint. (Dkt. 21). At the parties' request, on November 23, 2020, the Court revised the briefing schedule, pursuant to which Defendants' motion was due by December 15, 2020, with Plaintiff's opposition due January 19, 2021 and Defendants' reply was due February 2, 2021. (Dkt. 23.) Defendants filed their motion to dismiss on December 15, 2020. (Dkts 27-30). On January 19, 2021, instead of filing an opposition brief, Plaintiff filed the Second Amended Complaint. (Dkt. 31).

Federal Rule of Civil Procedure 15(a) governs the procedure by which a party may amend its pleadings before trial. *See* Fed. R. Civ. P. 15(a). A party may amend its pleading “once as a matter of course” without the Court’s approval or the opposing party’s written consent “21 days after serving [the pleading]” or “if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b),

(e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(A), (B). Plaintiff is unable to amend the First Amended Complaint as a matter of course pursuant to Rule 15(a)(1)(A), (B). Pursuant to Rule 15(a)(2), however, a party may amend its pleading either “with the opposing party’s written consent or the court’s leave.”

Although the Court has previously granted leave to file the First Amended Complaint, *see* Dkt. 17, Plaintiff has not requested leave of the Court to file the Second Amended Complaint. By no later than January 29, 2021, Plaintiff is hereby ORDERED to file a letter with the Court, explaining whether he filed the Second Amended Complaint with Defendants’ written consent, as required by Rule 15(a)(2). If Plaintiff did not receive such consent, Plaintiff must explain under what authority he filed the Second Amended Complaint on January 19, 2021.

SO ORDERED.

Dated: January 22, 2021
New York, New York



JOHN P. CRONAN
United States District Judge